UNITED
NATIONS

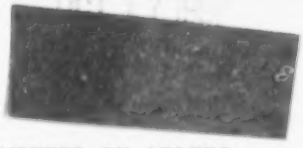
CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/304/Add.24
23 April 1997

Original: ENGLISH



COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fiftieth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on
the Elimination of Racial Discrimination

Germany

1. The Committee considered the thirteenth and fourteenth periodic reports of Germany submitted in a single document (CERD/C/299/Add.5), at its 1196th and 1197th meetings (CERD/C/SR.1196 and 1197), on 10 and 11 March 1997. At its 1211th meeting, held on 20 March 1997, it adopted the following concluding observations.

A. Introduction

2. The Committee commends the State party on the high quality of its report, drawn up in accordance with the Committee's guidelines, although it is noted that the report did not deal systematically with the Committee's concluding observations relating to the previous report of the State party. The comprehensive information provided in the report and its annexes, the frank and constructive approach taken by the high-level delegation in the dialogue with the Committee and the additional information provided in response to questions posed by Committee members manifest the serious commitment of the Government of Germany to the principles and purpose of the Convention.

3. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention, and some of its members requested that the possibility of such declaration be considered.

B. Factors and difficulties impeding the implementation of the Convention

4. The Committee notes that there is no national human rights institution or ombudsman in Germany authorized to monitor and coordinate the Government's efforts to eliminate racial discrimination, and that no comprehensive anti-discrimination law has been adopted, notwithstanding the fact that the German Constitution (Grundgesetz) and many federal and provincial (Länder) laws do prohibit and envisage criminal sanctions for various manifestations of racial discrimination and xenophobia.

C. Positive factors

5. The Committee expresses satisfaction at the significant decrease in criminal offences against foreigners and asylum seekers and of other expressions of racial discrimination and violence in the period since Germany's last report. This decrease appears to be attributable to the manifold legislative, administrative and judicial measures taken by German federal and provincial authorities, including amendments to the criminal law and enactment of additional legislation aimed at rendering the prohibition of racial discrimination and the protection of victims more effective.

6. The prohibition of the production and distribution of neo-Nazi literature and the severe punishment of persons found guilty of incitement to racial hatred have no doubt contributed to the improvement in the situation since Germany's last report. There has also been a noticeable decline in the number of persons belonging to extremist organizations, several of which have been banned. In this context, the Committee is pleased that Germany has adopted legislative measures to fulfil the requirements of article 4 of the Convention.

7. The Committee is aware that attitudes of xenophobia and racial discrimination are rejected by a broad section of the German public, as shown in many spontaneous anti-discrimination demonstrations in German cities, expressions of compassion for the victims of violence, and frequent condemnation of xenophobia and racial discrimination in the daily press and other media.

8. The Committee reiterates that genocide has rightly been condemned as a crime against humanity, and trusts that all genocidal acts will be condemned without any distinction as to time, place or group of victims; it further hopes that schemes for compensation of the victims of genocide and for prevention of any future discrimination will cover all groups that have been or may become victims.

9. Information provided in the report and orally by the delegation indicates that some victims of discrimination have been successful in vindicating their rights in the German courts, including in the context of employment.

10. The Committee welcomes the information given by the delegation concerning the guidelines on education issued by the Conference of Ministers of Culture, which provide for the systematic teaching of human rights and the principles of tolerance and coexistence in a multicultural society. In particular, the Committee commends the German authorities for the improved curricula at various levels of schooling, encompassing instruction, starting in early years of schooling, about other cultures and religions, aiming to instil in the young a feeling of respect for all human beings regardless of ethnic origin or religious affiliation.

11. The frank acknowledgement by the German delegation that there are still serious problems to solve, and the commitment of the German authorities to take preventive measures and to continue monitoring developments, reflect a realistic approach likely to produce good results.

12. The Committee also welcomes ongoing regional cooperation in the eradication of xenophobia and racial discrimination, particularly in the context of the European Union, such as the activities launched in connection with the European Year against Racism.

D. Principal subjects of concern

13. Concern is expressed over manifestations of xenophobia and racial discrimination, including acts of anti-Semitism and hostility against certain ethnic groups, and racial violence that still occur on a substantial scale in Germany. In spite of the Government's efforts to prevent them and to punish the perpetrators, it appears that such manifestations reflect deep-seated prejudices and latent fears still prevailing in certain sections of the population, particularly among the less educated and the unemployed. This situation calls for continued efforts on the part of the federal and provincial governments to eradicate the causes of discrimination and to intensify information and educational programmes.

14. Concern is expressed at the fact that while the State party has accorded the status of ethnic minority and provided special protection to four small ethnic groups traditionally resident in Germany, it has left numerically much larger ethnic groups without any specific protection, in particular, members of those ethnic groups who have long-term residence status or who have become German citizens.

15. Concern is expressed at instances of police brutality against foreigners, particularly Africans and Turks, which have been reported in the press. Better training and stricter disciplinary action against the perpetrators appear to be necessary.

16. It is noted with concern that private insurance carriers sometimes discriminate against ethnic groups and that the onus of complaining is placed on the victim. The Committee considers that federal legislation regulating the insurance industry should prohibit such abuses.

17. Concern is also expressed at the absence of comprehensive legislation to prohibit racial discrimination in the private sector in accordance with articles 2 (1)(d) and 5 (e)(i) of the Convention.

18. It is noted with concern in connection with article 6 of the Convention that certain categories of foreigners, including those without legal status and temporary residents, are not entitled to redress for acts of racial discrimination committed against them.

19. It is noted with concern that no information was made available by the State party concerning measures taken to eradicate de facto racial segregation in accordance with article 3 of the Convention and as further elaborated in the Committee's General Recommendation XIX (47).

E. Suggestions and recommendations

20. The Committee recommends again that the German authorities give serious consideration to the enactment of a comprehensive anti-discrimination law and suggests that consideration also be given to the establishment of a national institution to facilitate the implementation of the Convention, bearing in mind the Committee's General Recommendation XVII (42).

21. The Committee encourages the State party to continue exploring ways of providing specific protection to all ethnic groups living in Germany.

22. In its forthcoming report the State party should address, inter alia, issues of racial discrimination in the private sector, access to employment by foreigners, post-employment contract equality, de facto racial segregation (bearing in mind the Committee's General Recommendation XIX (47) on article 3 of the Convention), prompt investigation and prosecution of xenophobic offences, in particular those committed by members of the police forces, legislation on foreigners and its implementation (in accordance with the Committee's General Recommendation XI), current asylum practices, in particular in relation to the list of so-called "safe countries", compensation to all victims of acts of racial discrimination in Germany, and the respective competences of the federal and provincial (Länder) authorities.

23. The Committee recommends that the State party's next periodic report be an updating report in accordance with the reporting guidelines, taking account of the Committee's concluding observations.

24. The Committee invites the State party to make its report and the Committee's concluding observations widely available in Germany with a view to generating discussion on the problems still existing.